



Docket No. 2112-342.1 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
VEGLIANTE et al.

Serial No. 09/970,015

Filed: October 31, 2001

Title: FILM CUTTER ASSEMBLY

Group Art Unit: 3724

Examiner: HAMILTON, I.

X

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF PAUL VEGLIANTE
SUBMITTED UNDER 37 CFR 1.132**

Sir:

I, Paul Vegliante, Executive Vice President of Operations of AEP Industries, Inc. (hereinafter referred to as "AEP"), assignee of the above-referenced application, with offices located at 125 Phillips Avenue, South Hackensack, New Jersey 07606, and an inventor of the above-described patent application, hereby declares as follows:

1. It is known and understood by those skilled in the art that plasticized PVC comprising at least 10% of plasticizers provide an attractive cling property.

As a result of this percentage of plasticizers, the plasticized PVC is flexible and non-rigid.

2. I have reviewed U.S. Patent No. 3,199,394 to Castelli, the specification and the claims thereof. Castelli is conventional tape cutter which can be formed of plasticized PVC which is rigid and made from a single casting or molding operation. Castelli does not disclose a tape cutter which is flexible, or is formed of plasticized PVC comprising at least 10% of plasticizers or has a cling property. Rather, if the tape cutter

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of Castelli were formed of plasticized PVC comprising at least 10% of plasticizers, the plasticized PVC would compromise the structural integrity of the tape cutter because it would be flexible. The weight of the several rolls of tape and axel which are part of the Castelli device could not be supported by a tape cutter formed of flexible PVC. Also, the axel could not be supported by a tape cutter formed of flexible PVC. The flexibility would compromise the tape cutter's intended use of being held in a user's hand and securely holding and dispensing several roles of tape. As understood by those skilled in the art, the Castelli device must be formed of material that is rigid. Also, if the tape cutter of Castelli were formed of plasticized PVC comprising at least 10% of plasticizers, the Castelli tape cutter would have the non-desirable property of having a plastic based tape be attracted to the housing and cling to the entire housing. Not only would a plastic tape cling to the base rail for cutting tape, but material would cling to every portion of the tape cutting device of Castelli. Accordingly, there could be no smooth dispensing of the plastic adhesive tape. In contrast, one of ordinary skill in the art would realize that Castelli can only work with rigid PVC which does not create cling between the plastic tape and the housing and relies on an applied adhesive tape to hold the adhesive tape to the slide cutter.

3. Further, Castelli teaches that suitable materials for forming the tape dispenser device are polypropylene, polyethylene and plasticized PVC. Polypropylene and polyethylene do not have an attractive cling property. Because polypropylene and polyethylene do not have a cling property, Castelli does not make clear that the "cling" property of plasticized PVC comprising at least 10% plasticizer is necessarily present and that any inherent "cling" property of plasticized PVC would be so recognized by persons skilled in the art. Castelli teaches away from the present invention by teaching materials of polypropylene and polyethylene which do not have an attractive cling property.

4. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of

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Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Dated: 8-5, 2004 By: Paul Vegliante
PAUL VEGLIANTE